

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**J&J FARMS CREAMERY CO. AND
GOWANUS STAFFING, INC., A SINGLE
OR JOINT EMPLOYER**

and

Case 29-CA-208094

JAMAL WATTS-TARVER

ORDER¹

The petition filed by J&J Farms Creamery Co. to revoke subpoena duces tecum B-1-ZF5HUU, and the petition filed by Gowanus Staffing, Inc., to revoke subpoena duces tecum B-1-ZF5SK3, are denied. The subpoenas seek information relevant to the matters under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations.² Further, the Petitioners have failed to establish any other legal basis for revoking the subpoenas.³ See generally, *NLRB v. North Bay Plumbing, Inc.*,

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² We have evaluated the subpoenas in light of the Region's modifications in its opposition brief regarding pars. 21-23, 28, 30, and 32 of each subpoena, which indicate that these paragraphs pertain only to the direct employer of the employees. (Opp. at 6-7, 11-12).

³ J&J Farms Creamery Co. asserts that no responsive documents exist for subpoena pars. 24-27, 29, and 31. The Petitioner is not required to produce evidence requested in the subpoena that it does not possess, but the Petitioner is required to conduct a reasonable and diligent search for all requested evidence and, as to requested evidence that the Petitioner determines that it does not possess, the Petitioner must affirmatively represent to the Region that no responsive evidence exists.

With respect to the Petitioners' stated concerns about confidentiality, we find that they have failed to explain why the procedure set forth in paragraph "I" of the subpoena's Definitions and Instructions is not sufficient to address their concerns.

102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., July 16, 2018.

JOHN F. RING,	CHAIRMAN
MARK GASTON PEARCE	MEMBER
MARVIN E. KAPLAN,	MEMBER